

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

07/11/2002

CLERK OF THE COURT
FORM V000A

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

CV 2001-019519

FILED: _____

RON HERB

DOUGLAS N NELSON

v.

MICHAEL MAILBERG

MICHAEL MAILBERG
1451 N 54TH LN
PHOENIX AZ 85043-0000

MARYVALE JUSTICE COURT
REMAND DESK CV-CCC

MINUTE ENTRY

This Court has jurisdiction of this civil appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement since and this Court has considered and reviewed the record of the proceedings from the Maryvale Justice Court, and the Memoranda submitted by the parties and counsel.

Appellant, Michael Mailberg, was the Defendant in a Forcible Detainer case filed by Appellee/Plaintiff, Ron Herb, in the Maryvale Justice Court. On appeal Mailberg claims that "Appellant never filed a lease with the justice court showing any landlord/tenant relationship."¹ However, Appellant (Appellant is Michael Mailberg), is not required to file a lease

¹ Appellant's Opening Brief, at page 2.
Docket Code 019

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with the justice court, neither is Appellee. The Court finds no error with this allegation, which is not explained by Appellant.

Appellant also claims that the trial court erred in accepting jurisdiction but fails to explain. Appellee points out appropriately, that Appellant has failed to order a transcript of the record of the proceedings before the trial court. The rules clearly require that a transcript of the record of the proceedings will prepared in all cases appealed to the Superior Court, except where other methods are established by Superior Court Local Rules.² When matters are not included within the record on appeal, the missing portion of the record must be presumed to support the decision made by the trial court.³ This Court has received no transcript of the proceedings from the lower court and will presume that the trial court did not err in accepting jurisdiction as there is no other information from which this court could conclude otherwise.

Finally, Appellee has requested attorney's fees and costs in defending this appeal, but has cited no statutory or contract authority in support of the request.

IT IS THEREFORE ORDERED denying Appellee's request for attorney's fees and costs.

IT IS ORDERED affirming the judgment of the Maryvale Justice Court in this case.

IT IS FURTHER ORDERED remanding this matter back to the Maryvale Justice Court for all further and future proceedings in this case.

² See Rule 11(e)(2), Superior Court Rules of Appellate Procedure-Civil.

³ See State v. Mendoza, 181 Ariz. 472, 891 P.2d 939 (1995).